

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JANUARY 3, 2023 ~ 6:00 P.M.

BLUE LION, 101 NORTH 2ND STREET

Fort Smith District Judge Amy Grimes administered the Oaths of Office to incoming elected officials, i.e. Mayor George G. McGill and Directors-at-Large Christina Catsavis (Position 5), Kevin Settle (Position 6), and Neal Martin (Position 7), for the term of January 1, 2023 through December 31, 2026.

The meeting was called to order by Mayor George McGill, presiding. Invocation was given by Mayor McGill, followed by the Pledge of Allegiance led by Director Jarred Rego.

On roll call, the following members of the Board were physically present: Directors Jarred Rego, Andre' Good, Lavon Morton, George Catsavis, Christina Catsavis, Kevin Settle, and Neal Martin. Mayor McGill declared a quorum present.

Mayor McGill inquired if any Board member had any item of business to present that was not already on the agenda. There was none presented.

The minutes of the December 13, 2022 regular meeting was presented for approval. Catsavis, seconded by Settle, moved adoption of the minutes as written. The members all voting aye, Mayor McGill declared the motion carried.

Item No. 1 was an ordinance rezoning identified property and amending the zoning map (*Not Zoned to Planned Zoning District at 8200 McClure Drive*) (*Planning*).

Director of Development Services Maggie Rice briefed the Board on the item advising such per the request of Ron Brixey, agent for Carrington Creek Holdings, LLC. The subject property is located on the southwesterly side of McClure Drive, between Massard Road and Wells Lake Road, and contains approximately 12.63 acres. The

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purpose of the rezoning is to allow for a forty-four (44) lot single-family subdivision with an amenity center. A neighborhood meeting was held on November 29, 2022 with two (2) neighboring property owners in attendance; however, they had no objections to the proposed. The Planning Commission held a public hearing on December 13, 2022 with no individual present to speak either in favor or opposition. The Planning Commission voted seven (7) in favor and zero (0) opposed to recommend the matter to the Board of Directors for consideration.

Morton, seconded by Martin, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance by caption for its readings. Prior to the vote, Director Martin questioned the amenities anticipated to be included in the Amenity Center.

Mrs. Rice advised such be utilized as a club house and although specific amenities are undetermined, such is anticipated to include pickleball courts. She further noted the Amenity Center will be for the exclusive use of the subdivision residents.

Director Morton inquired if the detention pond will address any potential drainage issues whereby Mrs. Rice responded affirmatively.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 1-23.

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*Planned Zoning District to Planned Zoning District at 10200 Chad Colley Boulevard*) (*Planning*).

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Mrs. Rice briefed the Board on the item advising such is per the request of Mickle Wagner Coleman, agent for Shire, Inc. The subject property is located south of Massard Road on the northwest side of Chad Colley Boulevard, and contains approximately 16.4 acres. The purpose of the proposed rezoning is to amend the existing Planning Zoning District (PZD) that will revise the front-yard setback to accommodate parking with rear access for forty-eight (48) rowhouse lots at the rear of the site. The subdivision is slated to have a total of ninety-two (92) single family lots, i.e. forty-four (44) detached and forty-eight (48) rowhouse lots. A neighborhood meeting was held on November 29, 2022 with no neighboring property owners in attendance. The Planning Commission held a public hearing on December 13, 2022 with no individual present to speak either in favor or opposition. The Planning Commission voted seven (7) in favor and zero (0) opposed to recommend the matter to the Board of Directors for consideration.

Catsavis, seconded by Martin, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be caption and for the readings to occur on the same date. The City Clerk read the ordinance by caption for its readings. Prior to the vote, Director Settle requested a more detailed explanation of the proposed amendment to the PZD and inquired of design details of the development, specifically regarding parking.

Mrs. Rice and the agent, Jackson Goodwin, advised the proposed amendment to the existing PZD is to reduce the front setback from twenty (20) feet to fifteen (15) feet, which will accommodate the relocation of parking for the rowhouses to the back of the property. It was also noted that each rowhouse will have a garage and room for parking two (2) vehicles in the driveway.

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Director Settle expressed concern that some residents will still park in the front; therefore, he inquired if the City may restrict or prohibit parking in the front of the rowhouse development whereby Mrs. Rice advised she will review and discuss the matter with the developer to possibly determine a viable solution to the future parking concern.

Director Martin questioned if the rowhouse portion faces the single-family portion of the development; inquired of the width of the roadway within the development; ingress and egress; and, requested confirmation that the amendment will impact only the PZD on the subject property.

Mr. Goodwin confirmed that Lots 42, 43, and 44 have been removed to accommodate rear parking, and will now be open space. Due to such, the rowhouse portion of the development will face the aforementioned open space area. With regard to the roadway within the development, he confirmed that such is twenty-seven (27) feet, which is the standard roadway width. With regard to ingress and egress, the development contains three (3) separate access points.

Mrs. Rice simply confirmed the proposed amendment will impact only the existing PZD associated with the subject development.

Director Morton advised that although parking is relocated to the back, he too conveyed much confidence and concern there will still be residents that will park in the front and inquired if said parking can be prohibited. He further noted that parking in the front could potentially impact the passage for emergency vehicles; therefore, he urged that such remain in the forefront of the parking concern. With regard to the roadway located within the development, he questioned who will own such.

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Mr. Goodwin advised the back access to the rowhouses will be a private drive; however, the remaining streets within the development will be owned by the City of Fort Smith as a street right-of-way.

With regard to no parking on the street, Mrs. Rice advised that certain criteria must be met to warrant said posting, which can be reviewed by the Street Department.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 2-23.

Item No. 3 was an ordinance amending Article IV, Section 4-96 of the Fort Smith Municipal Code; establishing a permit fee for the transfer of animals within the corporate limits of the City of Fort Smith; and establishing a penalty for violation ~ *Morton/Settle placed on agenda at the November 10, 2022 study session ~ (Administration)*.

Deputy City Administrator Jeff Dingman briefed the Board on the item advising that at the November 10, 2022 study session, discussion related to the proliferation of stray animals in the city of Fort Smith whereby Directors Morton and Settle requested that an ordinance be brought before the Board for consideration of requiring a permit to sell animals (puppies, kittens, etc.) within the city limits; establishing of fee of \$300 for such permit; and, establishing a penalty of \$600 for selling animals without a permit. Article IV, Section 4-96 of the Fort Smith Municipal Code already requires that any sale of animals within the corporate limits of the City of Fort Smith has to be done from a permanent, physical location that is properly zoned for such activity. By requiring a properly licensed permanent location, this provision prohibits the sale of animals (especially puppies & kittens) from random locations such as parking lots or roadsides. Upon approval, the proposed ordinance accomplishes the requested the requirement to obtain a permit from

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the City for a \$300 annual fee and establishing a penalty of \$600 for any instance of violation. The annual fee for selling animals also applies to those who obtain breeder's licenses and then sell the offspring themselves. Staff is currently working on an overhaul of the chapter on Animals in the municipal code. Upon adoption, the provisions of the proposed ordinance will be incorporated into that effort and presented in whole later in the spring of 2023.

Martin, seconded by Morton, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance by caption for its readings. Prior to the vote, Director Morton conceded he was unaware of the existing regulations that requires the sale of animals to be from a permanent location; however, he clarified his intent was to require a new permit every ninety (90) days to deter the constant breeding. Regardless, since there are already provisions "*on the books*", he urged such be more actively enforced.

Morton, seconded by Good, moved to amend the proposed ordinance to require a permit every 90 days. Prior to the vote, there was brief discussion whereby concern was expressed that said timeframe was too limited; therefore, Director Morton amended his motion to require a permit every one-hundred-twenty (120) days. Prior to the vote, there was even greater discussion that prompted City Attorney Jerry Canfield to remind all that the proposed language requires those "*giving away*" an animal to obtain the requested permit as well.

Director Morton denoted the language can be adjusted to address hardships to allow an unwanted animal to be given away; however, he again urged the proposed was intended to address the constant and consistent puppy sales within the city of Fort Smith.

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Director Catsavis invited Ms. Joni Rogers, Fort Smith Animal Haven, to address the Board.

Ms. Rogers spoke in favor of *“doing away with backyard breeders”* citing many of such end-up at the shelter due to sickness. She added at even legitimate breeders sometimes give away free puppies sometimes when the animal isn't healthy. She conveyed much concern that if the recipients obtaining the free puppy can't afford to purchase the animal, there's high likelihood that they cannot afford to maintain the puppy. She further explained that mandating spay and neuter will assist with the numerous population more than anything, but reiterated that prohibiting backyard breeding will help as well.

City Administrator Carl Geffken questioned the statistics regarding Parvo in puppies.

Cindy Scott, Director of The Artimus Project, advised that they receive a numerous amount of puppies being surrendered due to having Parvo. She encouraged that residents not be prohibited from finding a home for a dog that wanders onto their property and recommended the ordinance be amended to reflect same. If a permit is required for the sale of puppies, she further recommended that the puppy have been administered an age appropriate vaccine prior to the sale.

Due to the numerous concerns expressed, Mayor McGill suggested it may be best to table the item until all aspects of the proposed can be clarified.

Director Good expressed concern with the multiple variables denoting the forthcoming discussion regarding animals. He further acknowledged that enforcement is a large issue as well.

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Director Rego also expressed concern with the matter denoting the \$600 penalty is standard, but the only additional expense is the \$300 permit whereby a permit is already required for breeders. Due to such, he questioned the necessity of the proposed ordinance and spoke in favor of tabling consideration of the item.

Settle, seconded by Morton, moved to table consideration of the ordinance to the first regular meeting in February, i.e. February 7, 2023. Prior to the vote, it was reminded that a motion to amend the ordinance to require a permit every 120 days remained on the floor whereby Director Morton rescinded his motion.

Director Good recommended the ordinance, when presented in February, include language to address rescues or the “giving away” of animals.

The motion remaining on the floor to table the item to the February 7, 2023 regular meeting and the members all voting affirmatively, the Mayor declared the motion carried.

Item No. 4 was a resolution regarding flag display at Riverfront Park (*Administration*).

Administrator Geffken briefed the Board on the item advising the Arkansas State Capitol and Historical Monument Protection Act of 2021, also known as Act 1003 of 2021, defines a flag display as a “historical monument.” The City of Fort Smith desires to install the flags of the six (6) branches of the military and the United States flag on the poles at Riverfront Park. The City also desires to maintain flexibility as to the future display of flags on the seven flagpoles at said location. In order to comply with the aforementioned Act and to maintain the desired flexibility, the proposed resolution codifies the Fort Smith Board of Directors intentions and decision.

The following individual was present to address the Board:

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- Mr. Joey McCutcheon
Fort Smith, Arkansas

Re: Advised he supports a permanent military exhibit, but not at the proposed location citing he disagrees with the recent court Judgment. He further noted that the Arkansas legislature will consider a bill to clarify the aforementioned Act in the upcoming General Assembly. Due to such, he requested the flag display not be placed at the downtown location and suggested possibly Cisterna Park. Additionally, he encouraged that any decision regarding the placement of flags be approved by the Board of Directors, not the City Administrator.

City Attorney Jerry Canfield clarified that the State Legislature may consider an amendment to the Act; however, he conveyed much assurance the General Assembly cannot undo what's been done judicially as the matter has not been appealed.

Rego, seconded by Good, moved adoption of the resolution. Prior to the vote, Director Rego spoke in favor of the item citing he's pleased the proposed will honor the military citing his hope such will never be removed.

Regarding Section 2 of the ordinance, i.e. *"As determined by the City Administrator, any display of flags at Riverfront Park may be removed and/or replaced, in whole or in part, to include other flags pertinent to the City"*, Director Settle questioned the purpose of such citing the Board should approve any removal of the flags.

Administrator Geffken clarified that such is merely to grant the City Administrator the authority to remove tattered flags.

Director Good spoke in favor of retaining said verbiage citing the Board could be urged to replace the military flags with other types of flags. Granting the City Administrator the authority will keep the Board out of the politics of the matter.

Directors Martin and Morton concurred that the Board should make the decision.

Administrator Geffken requested confirmation of the number of flagpoles under the

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City's responsibility whereby Director of Parks and Recreation Doug Reinert responded "over 30."

Settle, seconded by Good, moved to remove the word "temporary" from Sections and 3 deeming said flagpoles as permanent fixtures. Prior to the vote, City Attorney Canfield clarified that inclusion of the word "temporary" ensures City jurisdiction; however, if such is removed, he cautioned that the City would then be required to comply with the requirements of Act 1003.

Due to the aforementioned, Director Settle withdrew his motion to amend the ordinance.

Settle, seconded by Rego, moved to amend the ordinance to include the addition of a Section 4 requiring any change in the type of military flags or the United States flag be approved by the Board of Directors. The members all voting affirmatively, the Mayor declared the motion carried and the resolution stood amended.

The motion to approve the resolution as amended remaining on the floor, the members all voted affirmatively with the exception of Director George Catsavis, who voted "no." The Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-1-23.

Item No. 5 was an ordinance approving Wine Tasters Society of Arkansas, Inc. d/b/a The Goat House to file an application with the Alcohol Beverage Control Division to obtain private club and retail beer licenses to sell liquor, wine and beer (*Finance*).

Director of Finance Andy Richards briefed the Board on the item advising the State of Arkansas 91st General Assembly passed Act 1112 in 2017 titled "*An Act to authorize the governing bodies of counties and municipalities to initiate the permitting process for private clubs; and for other purposes.*" The application process for private club permits

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begin at the municipality level. The City of Fort Smith must pass an ordinance for approval of any new applicant that wishes to apply for a private club permit. A current permit holder wishes to apply for a new private club permit under a new business name and location.

Pertinent information is as follows:

Old Permit

Applicant Name: Drew Inthavong, Owner/ Operator
Corporate Name: Wine Tasters Society of Arkansas, Inc.
Business Name: La Bodega Bar operating at 3720 Midland Blvd

New Application

Applicant Name: Drew Inthavong, Owner/ Operator
Corporate Name: Wine Tasters Society of Arkansas, Inc.
Business Name: The Goat House at 9501 Rogers Avenue, Suites 2A and 3A

The private club permit will allow the sale of liquor, wine, and beer on premise. Business license staff has determined that the entity is in good standing with the City of Fort Smith and is ready to finalize the business license. They have applied for a 2:00 a.m. private club permit with the State of Arkansas Alcohol Beverage Control office.

Note: Director Martin temporarily left the room just prior to the motion to adopt the ordinance, but returned immediately thereafter.

Director George Catsavis, seconded by Rego, moved adoption of the ordinance. There being no director commenting and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 3-23.

Item No. 6 was a resolution to endorse and support the nomination of Fort Smith City Clerk Sherri Gard to serve on the Board of Directors of the International Institute of Municipal Clerks (IIMC) (*City Clerk*).

Administrator Geffken briefed the Board on the item advising City Clerk Sherri Gard has been nominated to serve on the Board of Directors of the International Institute

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of Municipal Clerks (IIMC), representing Region IV which consists of the States of Arkansas, Louisiana, Mississippi, Oklahoma, and Texas. Mrs. Gard has served the City of Fort Smith as Assistant City Clerk and City Clerk since 1996; has served as president of the Arkansas City Clerks, Records, and Treasurers Association (ACCRTA) on multiple occasions; has attained the designation of Master Municipal Clerk; and meets all qualifications to serve as the IIMC Region IV Director. In order to do so, such requires the written support of the governing body; therefore, the proposed resolution accomplishes same.

Morton, seconded by Settle, moved adoption of the resolution. Prior to the vote, Directors Rego, Morton, and Settle, as well as City Attorney Jerry Canfield extended kind accolades regarding Mrs. Gard's service and conveyed congratulations for the nomination.

The motion remaining on the floor to adopt the resolution and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-2-23.

The consent agenda (Item No. 7) was presented for consideration, the items being as follows:

- A. Resolution setting public hearing date on petition to vacate portions of South 8th Street, Belmont Street, and R.S. Boreham, Jr. Street (*Planning*)
- B. Resolution accepting completion and authorizing final payment to Steve Beam Construction, Inc. for construction of Creekmore Park Walking Trail Improvements (*Parks Department / \$19,637.96 / Budgeted – 1/8% Sales and Use Tax*)
- C. Resolution accepting bids for the purchase of aggregates, sand, concrete, and asphalt concrete products for 2023 (*Annual bid / Various Departments / Budgeted - Various Departments*)

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Morton, seconded by Rego, moved adoption of all consent agenda items. Prior to the vote and regarding Item No. 7B, Director Martin simply inquired if the subject walking trail is currently open for use whereby Administrator Geffken responded affirmatively.

With regard to Item No. 7C, Director Morton denoted the inflation rates as much as twenty-to-thirty percent (20% - 30%) whereby Administrator Geffken advised Purchasing Manager Alie Bahsoon has prepared schedules to identify such.

The motion remaining and the floor to adopt all consent agenda items and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolutions No. R-3-23 through R-5-23 respectively.

Mayor McGill opened the Officials Forum with the following comments offered:

► Mayor McGill

- Re:
1. Noted multiple City employees have been received several recognitions in 2022, i.e. Top Police Chief, Police Officer of the Year, Top Administrator of the Year, etc.; therefore, he noted that such confirms the quality of City of Fort Smith leadership.
 2. Extended much appreciation to all who attended the New Year's Eve celebration, and all involved in making the event a success.
 3. Advised he will provide the annual State of the City address is scheduled for 6:00 p.m., February 1, 2023 at the University of Arkansas Fort Smith Reynolds Room.

► Director Rego

- Re:
1. As most are aware, Mercy Hospital currently has an ongoing construction project. Such has required the relocation of Mercy employee parking across South 74th Street, and unfortunately, an employee was recently struck by a vehicle while crossing the street. Due to such, he recommended the City look into added pedestrian safety ideas to prevent future occurrences.

Administrator Geffken advised he's directed the Street Department to review and determine if something additional can be done.

Director Morton suggested the temporary placement of speed bumps.

Director Settle inquired of the estimated completion date of the construction project whereby Director Rego advised completion is not anticipated until 2024.

2. Welcomed newly-elected Director Christina Catsavis to the Board, starting her term effective January 1, 2023.

► Director Morton

Re: Requested an update regarding the reimbursement from the Federal Emergency Management Administration (FEMA).

Administrator Geffken provided a brief update advising reimbursement regarding the "P" Street Outfall and pump stations are still outstanding.

► Director George Catsavis

Re: Also extended a heartfelt "Welcome" to Director Christina Catsavis citing much confidence she'll do a great job.

► Director Christina Catsavis

Re: Simply extended "*Thank You*" for the "*Welcome to the Board*" conveyances stating she's "*happy to be here.*"

► Director Settle

Re: 1. Extended congratulations to Northside High School for winning the Coke Classic on December 28, 2022

2. Merely wished to advised that it's been eight (8) years since the City entered into the Consent Decree, and last week, the United States Department of Justice (DOJ) and Environmental Protection Agency (EPA) reinstituted the Waters of the United States rule. He noted the "*rules have changed again*" citing it's "*unfortunate*" that such occurs "*almost daily.*"

► Director Martin

Re: Regarding last week's inclement weather and below zero temperatures, he received multiple calls regarding animals being left outside. Presently, the Fort Smith Municipal Code only addresses animals being outside when tethered; therefore, he recommended an amendment to require proper shelter in such instances.

► Administrator Geffken

Re: 1. Extended a *"Happy New Year"* to all.
2. Welcomed newly-elected Director Christina Catsavis to the Board of Directors.

The Board convened into executive session at approximately 7:39 p.m. and after reconvening, the Mayor announced the following appointment nominations:

ADVERTISING AND PROMOTION COMMISSION

CITIZEN REPRESENTATIVE

Brandon Goldsmith (reappointment)
Duke Welsh
Terms expire December 31, 2026

CITY OF FORT SMITH REPRESENTATIVE

Director Jarred Rego ~ *to fill the unexpired term of Mayor George McGill ~*
Director Christina Catsavis ~ *to fill the unexpired term of former Director Robyn Dawson ~*
Terms are indefinite

AUDIT ADVISORY COMMITTEE

DIRECTOR REPRESENTATIVE

Director Andre' Good ~ *to fill the unexpired term of former Director Robyn Dawson ~*
Term expires November 30, 2024

VICE-MAYOR

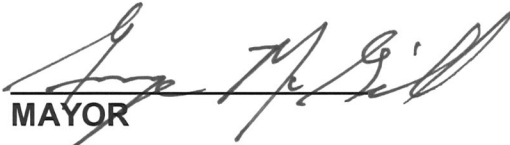
Director Jarred Rego (reappointment)
Term expires December 31, 2024

Morton, seconded by Martin, moved acceptance of all the above named appointment nominations. The members all voting aye, the Mayor declared the motion carried.

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There being no further business to come before the Board, Director Martin moved that the meeting adjourn. The motion was seconded by Director Settle. The members all voting aye, Mayor McGill declared the motion carried and the meeting stood adjourned at 7:45 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK